

2005

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

JEFF HATCH-MILLER, Chairman  
WILLIAM A. MUNDELL  
MARC SPITZER  
MIKE GLEASON  
KRISTIN K. MAYES

Arizona Corporation Commission  
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AZ Corporation Commission  
Director Of Utilities

IN THE MATTER OF THE APPLICATION OF  
ANDIAMO TELECOM, LLC FOR A  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE ALTERNATIVE  
OPERATOR SERVICES WITHIN THE STATE OF  
ARIZONA.

DOCKET NO. T-04267A-04-0480

DECISION NO. 67749

ORDER

Open Meeting  
April 5 and 6, 2005  
Phoenix, Arizona

**BY THE COMMISSION:**

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

**FINDINGS OF FACT**

1. On June 29, 2004, Andiamo Telecom, LLC ("Applicant" or "Andiamo") filed with the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide alternative operator services ("AOS") within the State of Arizona.

2. In Decision No. 57339 (April 5, 1991), the Commission found that AOS providers were public service corporations subject to the jurisdiction of the Commission.

3. In Decision No. 58421 (October 1, 1993), the Commission adopted A.A.C. R14-2-1001 through R14-2-1014 to regulate AOS providers.

4. Andiamo has authority to transact business in the State of Arizona.

5. On October 18, 2004, Andiamo filed an Affidavit of Publication indicating compliance with the Commission's notice requirements.

6. On February 23, 2005, the Commission's Utilities Division Staff ("Staff") filed a Staff

1 Report in which Staff recommends approval of the application subject to certain conditions.

2 7. In the Staff Report, Staff stated that Andiamo provided unaudited financial statements  
3 for the three months ending March 31, 2004, which lists assets of \$4,071,930, equity of \$195,441,  
4 and net income of \$3,766.

5 8. According to the Staff Report, Andiamo provides AOS service in nine other states and  
6 has the technical capacity to provide the proposed services.

7 9. In its Staff Report, Staff stated that based on information obtained from the Applicant,  
8 it has determined that Andiamo's fair value rate base ("FVRB") is zero. Staff has determined that  
9 Applicant's FVRB is too small to be useful in a fair value analysis and is not useful in setting rates.  
10 While Staff considered the FVRB information, it did not believe the information deserved substantial  
11 weight in setting rates for Andiamo.

12 10. The Commission adopted maximum rates for AOS service in Decision No. 61274  
13 (December 14, 1998), and these rates are reflected in Schedules 1 and 2 attached to the Staff Report.  
14 In its Staff Report, Staff indicated that the proposed rates and charges, as set forth in Andiamo's tariff  
15 filing of June 29, 2004, for either interLATA or intraLATA telephone services are identical to or less  
16 than the rates and service charges contained in Schedules 1 and 2, and therefore, Staff believes that  
17 Andiamo's proposed tariffs are reasonable and recommends that the Commission approve them.

18 11. Staff recommended that if Andiamo desires to increase its rates in response to an  
19 increase in maximum rates by any of the carriers used in developing Schedules 1 or 2, it should file  
20 the following items for Commission review: (1) an estimate of the value of its plant to serve Arizona  
21 customers; (2) a tariff setting forth the new maximum rates, which do not exceed the maximum rates  
22 of the five major carriers; and (3) all information required by Arizona Administrative Code ("ACC")  
23 R14-2-1110.

24 12. Staff recommended approval of Andiamo's application subject to the following:

25 (a) that Applicant should be ordered to comply with all Commission rules, orders,  
26 and other requirements relevant to the provision of intrastate telecommunications  
27 service;

28 (b) that Applicant should be ordered to maintain its accounts and records as

required by the Commission;

(c) that Applicant should be ordered to file with the Commission all financial and other reports that the Commission may require, and in a form and at such times as the Commission may designate;

(d) that Applicant should be ordered to maintain on file with the Commission all current tariffs and rates, and any service standards that the Commission may require;

(e) that Applicant should be ordered to comply with the Commission's rules and modify its tariffs to conform to these rules if it is determined that there is a conflict between the Applicant's tariffs and the Commission's rules;

(f) that Applicant should be ordered to cooperate with Commission investigations including, but not limited to customer complaints;

(g) that Applicant should be ordered to notify the Commission immediately upon changes to the Applicant's address or telephone number;

(h) that the maximum rates for these services should be the maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates for the Applicant's competitive services should be the Applicant's total service long run incremental costs of providing those services as set forth in A.A.C. R14-2-1109;

(i) that Applicant is authorized to discount its rates and service charges to the marginal cost of providing the services;

(j) that Applicant's interLATA rates and service charges for AOS services should be based on the maximum rates and service charges as set forth in Schedule 1 attached to the Staff Report;

(k) that Applicant's intraLATA rates and service charges for AOS services should be based on the maximum rates and service charges as set forth in Schedule 2 attached to the Staff Report; and

(l) that Applicant's property surcharge for AOS services be limited to \$1.00 per call.

13. Staff further recommended that Andiamo's Certificate should be conditioned upon the Applicant filing conforming tariffs in accordance with this Decision within 365 days from the date of an Order in this matter, or 30 days prior to providing service, whichever comes first.

14. Staff recommended that if the Applicant fails to meet the timeframes outlined in Findings of Fact No. 13, that Andiamo's Certificate should become null and void without further Order of the Commission, and that no time extensions for compliance should be granted.

15. The rates proposed by this filing are for competitive services.

16. Staff's recommendations as set forth herein are reasonable.

17. Andiamo's fair value rate base is zero.

## CONCLUSIONS OF LAW

1. Applicant is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

2. The Commission has jurisdiction over Applicant and the subject matter of the application.

3. Notice of the application was given in accordance with the law.

4. Applicant's provision of interLATA and intraLATA AOS service in Arizona is in the public interest.

5. Applicant is a fit and proper entity to receive a Certificate as conditioned herein for providing AOS in Arizona.

6. Staff's recommendations in Findings of Fact Nos. 10, 11, 12, and 13 should be adopted.

7. Andiamo's fair value rate base is not useful in determining just and reasonable rates for the competitive services it proposes to provide to Arizona customers.

8. Andiamo's rates, as they appear in its proposed tariffs, are just and reasonable and should be approved.

9. Pursuant to A.R.S. § 40-282(c)(2), a hearing is not required for the issuance of a Certificate to a reseller or an AOS provider.

**ORDER**

IT IS THEREFORE ORDERED that the application of Andiamo Telecom, LLC for a Certificate of Convenience and Necessity for authority to provide AOS is hereby granted, conditioned upon its compliance with the conditions recommended made by Staff as set forth in Findings of Fact No. 12 above.

IT IS FURTHER ORDERED that Staff's recommendations set forth in Findings of Fact Nos. 10, 11, 12, and 13 above are hereby adopted.

IT IS FURTHER ORDERED that Andiamo Telecom, LLC shall comply with the adopted Staff recommendations as set forth in Findings of Fact Nos. 11, 12 and 13 above.

IT IS FURTHER ORDERED that if Andiamo Telecom, LLC fails to meet the timeframes outlined in Findings of Fact No. 13 above that the Certificate conditionally granted herein shall become null and void without further Order of the Commission.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

 CHAIRMAN  COMMISSIONER  COMMISSIONER

 COMMISSIONER  COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 11<sup>th</sup> day of April, 2005.

  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_  
AP:mj

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2 DOCKET NO.: T-04267A-04-0480

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